

REMARKS

Claims 1 – 43, 45, and 50 - 56 are pending in the present application. Claim 43 has been amended, claims 44 and 46 – 48 have been cancelled, and claim 56 has been added.

The Examiner states that the declaration is allegedly defective for failing to identify at least one error that is relied upon to support the reissue application, citing 37 C.F.R. § 1.175(a)(1) and M.P.E.P. § 1414. Turning to 37 C.F.R. § 1.175(a)(1) it states, in part, “The applicant believes the original patent to be wholly or partly inoperative ... by reason of *the patentee claiming more or less than the patentee had the right to claim in the patent ...*”, emphasis added. Referring to paragraph 5 of the Reissue Declaration clearly follows the above language and paragraph 5B clearly identifies where the applicants believe they have claimed less than they had a right to claim, in a claim-by-claim manner. Paragraph 5B clearly and in great detail sets forth the difference in claim scope of the newly added claims and the issued claims. Applicants submit that the Declaration is in full compliance with 37 C.F.R. § 1.175(a)(1), and respectfully request that the Examiner withdraw this objection to the Reissue Declaration.

Claims 1 – 55 stand rejected as being based on a defective Reissue Declaration. As set forth above, applicants submit that the Reissue Declaration is proper, and respectfully request that this rejection be withdrawn and that these claims be allowed.

Claims 1 – 9 and 21 – 31 stand rejected as being allegedly unpatentable over Dobler et al. in view of Kobayashi et al. in view of Yu. Applicants agree with the Examiner that Dobler et al. and Yu alone and/or in combination with each other are deficient as references with respect to these claims. Further, the introduction of Kobayashi et al. fails to cure these deficiencies. Kobayashi et al. is not prior art. Kobayashi et al. was filed April 16, 2001, while the present application has a filing date of August 31, 2000. If the Examiner is relying on the Japanese priority date of Kobayashi et al., i.e., April 14, 2000, then this reliance is misplaced. It is well settled in the law that a “REFERENCE’S FOREIGN PRIORITY DATE UNDER 35 U.S.C. 119(A) – (D) CANNOT BE USED AS

THE 35 U.S.C. 102(e) REFERENCE DATE”, see M.P.E.P. 2136.03. In view of the foregoing, applicants respectfully request that this rejection be withdrawn and that these claims be allowed.

Claim 10 stands rejected as being allegedly unpatentable over Dobler et al. in view of Kobayashi et al. in view of Yu, and further in view of Nishimura. Applicants’ agree with the Examiner that Dobler et al., Yu and Nishimura alone and/or in combination with each other are deficient as references with respect to this claim. Further, the introduction of Kobayashi et al. fails to cure these deficiencies. Kobayashi et al. is not prior art. Kobayashi et al. was filed April 16, 2001, while the present application has a filing date of August 31, 2000. If the Examiner is relying on the Japanese priority date of Kobayashi et al., i.e., April 14, 2000, then this reliance is misplaced. It is well settled in the law that a “REFERENCE’S FOREIGN PRIORITY DATE UNDER 35 U.S.C. 119(A) – (D) CANNOT BE USED AS THE 35 U.S.C. 102(e) REFERENCE DATE”, see M.P.E.P. 2136.03. In view of the foregoing, applicants respectfully request that this rejection be withdrawn and that this claim be allowed.

Claims 11 – 20 stand rejected as being allegedly unpatentable over Dobler et al. in view of Yu. Dobler et al. fails to teach or suggest (1) “said exit portion of each of said vanes being inclined forward of said entrance portion of each of said vanes so as to advance toward said inner cylindrical surface of said outer ring at an exit angle with respect to a direction of rotation of said impeller” and (2) “each of said outer sidewalls of each said entrance portion being chamfered along a trailing corner thereof at a predetermined angle relative to said plane”, as recited by claim 11. Dobler et al. with the embodiment that includes the outer ring (Figures 6 – 7) allows for communication between both surfaces at one side of the V-shaped vane. The Examiner introduces Yu to address the aforementioned deficiencies of Dobler et al. Yu however, is directed to flow paths that do not allow for communication between both surfaces at one side of the vane, see Figure 2 thereof. These are different types of flow patterns. Applicants submit that one would not look to Yu when viewing Dobler et al., and even if they did, they would not apply the teachings of Yu the embodiment of Figures 5 – 7 of Dobler et al. but rather to the

embodiment of Figures 2 – 4 of Dobler et al. It is not clear from Yu how the surfaces would be combined when the rib 62 of Yu was not employed to separate to the two regions, without having the benefit of the present disclosure. This clearly an improper hindsight rejection. For at least these reasons, applicants submit that claim 11 patentably defines over Dobler et al. in view of Yu. Claims 12 – 20 should also be allowable as depending from what should now be an allowable independent claim. Accordingly, reconsideration and allowance of claims 11 – 20 are respectfully requested.

Claims 32 – 35 and 37 – 42 stand rejected as being allegedly unpatentable over Dobler et al. in view of Kobayashi et al. Applicants' agree with the Examiner that Dobler et al. is deficient as references with respect to these claims. Further, the introduction of Kobayashi et al. fails to cure these deficiencies. Kobayashi et al. is not prior art. Kobayashi et al. was filed April 16, 2001, while the present application has a filing date of August 31, 2000. If the Examiner is relying on the Japanese priority date of Kobayashi et al., i.e., April 14, 2000, then this reliance is misplaced. It is well settled in the law that a "REFERENCE'S FOREIGN PRIORITY DATE UNDER 35 U.S.C. 119(A) – (D) CANNOT BE USED AS THE 35 U.S.C. 102(e) REFERENCE DATE", see M.P.E.P. 2136.03. In view of the foregoing, applicants respectfully request that this rejection be withdrawn and that these claims be allowed.

Claim 36 stands rejected as being allegedly unpatentable over Dobler et al. in view of Kobayashi et al. and further in view of Nishimura. Applicants' agree with the Examiner that Dobler et al. and Nishimura alone and/or in combination with each other are deficient as references with respect to this claim. Further, the introduction of Kobayashi et al. fails to cure these deficiencies. Kobayashi et al. is not prior art. Kobayashi et al. was filed April 16, 2001, while the present application has a filing date of August 31, 2000. If the Examiner is relying on the Japanese priority date of Kobayashi et al., i.e., April 14, 2000, then this reliance is misplaced. It is well settled in the law that a "REFERENCE'S FOREIGN PRIORITY DATE UNDER 35 U.S.C. 119(A) – (D) CANNOT BE USED AS THE 35 U.S.C. 102(e) REFERENCE DATE", see M.P.E.P.

2136.03. In view of the foregoing, applicants respectfully request that this rejection be withdrawn and that this claim be allowed.

Claims 43, 45, and 52 - 55 stand rejected as being allegedly unpatentable over Dobler et al. in view of Yu. Claim 43 has been amended to include the limitations of claim 44 (now cancelled). Claim 44 should be allowable for the reasons set forth below. Claims 45 and 52 - 55 should be allowable as depending from what should now be an allowable independent claim (amended claim 43). Claims 46 - 48 have also been cancelled and the limitations thereof have been combined with the limitations of claim 43 in a newly presented claim 56. Accordingly, reconsideration and allowance of claims 43, 45, and 52 - 55 (and consideration and allowance of new claim 56) are respectfully requested.

Claims 44, 46 - 48, 50, and 51 stand rejected as being allegedly unpatentable over Dobler et al. in view of Yu, and further in view of Kobayashi et al. Claims 44 and 46 - 48 have been cancelled. Applicants' agree with the Examiner that Dobler et al. and Yu alone and/or in combination with each other are deficient as references with respect to these claims. Further, the introduction of Kobayashi et al. fails to cure these deficiencies. Kobayashi et al. is not prior art. Kobayashi et al. was filed April 16, 2001, while the present application has a filing date of August 31, 2000. If the Examiner is relying on the Japanese priority date of Kobayashi et al., i.e., April 14, 2000, then this reliance is misplaced. It is well settled in the law that a "REFERENCE'S FOREIGN PRIORITY DATE UNDER 35 U.S.C. 119(A) - (D) CANNOT BE USED AS THE 35 U.S.C. 102(e) REFERENCE DATE", see M.P.E.P. 2136.03. In view of the foregoing, applicants respectfully request that this rejection be withdrawn and that these claims be allowed.

Claim 49 stands rejected as being allegedly unpatentable over Dobler et al. in view of Yu, and further in view of Nishimura. Claim 49 should be allowable as depending from what should now be an allowable independent claim (amended claim 43), as set forth above. Accordingly, reconsideration and allowance of claim 49 are respectfully requested.

New claim 56 has been added, whereby consideration and allowance thereof is respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that claims 1 – 43, 45, and 50 - 56 are in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested.

In the event that there are any additional fees with respect to this Amendment, Applicants' attorneys respectfully request that such fees be withdrawn from Deposit Account No. 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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